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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,486	05/23/2001	Qiming Chen	10005118-1	9335

7590 01/18/2005

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EXAMINER

MASKULINSKI, MICHAEL C

ART UNIT PAPER NUMBER

2113

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,486

Applicant(s)

CHEN ET AL.

Examiner

Michael C Maskulinski

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 and 17 is/are rejected.
- 7) ☒ Claim(s) 2-7 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Non-Final Office Action

Election/Restrictions

1. Applicant's election without traverse of claims 1-7 and 17-20 in the reply filed on October 29, 2004 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Kirch, U.S. Patent 6,324,161 B1.

Referring to claims 1 and 17:

- a. In Figures 3b and 3c, Kirch discloses a failure being detected between two LANs (an inter-enterprise failure) and a failure being detected within a LAN (an intra-enterprise failure).
- b. In column 23, lines 12-15, Kirch discloses that FIG. 3c once again illustrates LAN 20 from FIG. 3a, but in this instance a failure is located within LAN 40 as shown by the "X" designated at F3 as opposed to a failure between routers as is the case in FIG. 3b. Further, in column 23, lines 21-26, Kirch discloses

rerouting upon failure (an intra-enterprise failure handler coupled to the failure detector for performing failure recovery for intra-enterprise failures).

c. In column 21, lines 62-67 continued in column 22, lines 1-9, Kirch discloses that FIG. 3b illustrates once again illustrates WAN 20 in the identical manner of FIG. 3a, but further adds an illustration of a failure F2 along line L2. Given the above steps and considering node A by way of example, one skilled in the art will appreciate that node A will fail to receive, within its timeout interval, a heartbeat packet from IP address 10.5.9.1 of node C and also from IP address 10.5.9.2 of node D. Thus, for each of these detected failures step 100 will repeat (with such repetition including steps 88, 94, and 96 as well) and for each repetition the re-routed process will modify node A's route table to include a remote host route which permits redirection of information to the dual communication path and thereby to circumvent the detected failure (an inter-enterprise failure handler coupled to the failure detector for performing failure recovery for inter-enterprise failures).

Allowable Subject Matter

4. Claims 2-7 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


US 2002/0116205 A1	Ankireddipally et al.
US 2002/0083344 A1	Vairavan
U.S. Patent 6,665,820 B1	Frowein et al.
U.S. Patent 6,178,463 B1	Houston et al.
U.S. Patent 5,940,839	Chen et al.
U.S. Patent 5,287,501	Lomet

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C Maskulinski whose telephone number is (571) 272-3649. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MM


ROBERT BEAUSOLIEL
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